

EXHIBIT 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether :
("MTBE") : Master File
Products Liability Litigation : No. 1:00-1898
: MDL No. 1358 (SAS)
: M21-88

This document relates to the
following case:

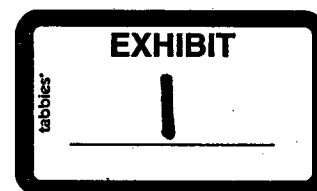
Orange County Water District v. :
Unocal Corp., et al., 04 Civ. 4968 : VOLUME I
(SAS) :
: Pages 1 - 210

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AUGUST 13, 2010

Videotaped Deposition of DAVID P. BOLIN,
Volume I, Orange County Water District's 30(b)(6)
designee in re Site Specific Station Investigations,
held at 650 Town Center Drive, 20th Floor, Costa Mesa,
California, commencing at 9:09 a.m., on the above date,
before Kimberly S. Thrall, a Registered Professional
Reporter and Certified Shorthand Reporter.

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<p style="text-align: right;">Page 14</p> <p>1 been produced.</p> <p>2 I believe what I was indicating when I made</p> <p>3 that statement, "The first real hydrogeologic evidence</p> <p>4 MTBE has escaped was MTBE detection in the production</p> <p>5 well associated with Plume 1," I think what I was saying</p> <p>6 there was that we knew that there had been a release at</p> <p>7 the site.</p> <p>8 I don't know exactly when the District knew</p> <p>9 there was a release at the site, but it was at some</p> <p>10 point in time, and that detection of contamination in</p> <p>11 the designated well drew attention that the</p> <p>12 contamination at the site had escaped remedial efforts,</p> <p>13 that there were core remedial efforts going on.</p> <p>14 There was investigation and cleanup going on by</p> <p>15 the owner, but it was not clear to us until we detected</p> <p>16 the MTBE in the production well that whatever measures</p> <p>17 were being taken at the site were not successful. They</p> <p>18 were failing in preventing contamination from leaving</p> <p>19 the site.</p> <p>20 BY MR. FINSTEN:</p> <p>21 Q. And that's because Orange County Water District</p> <p>22 is not harmed until the contamination escapes</p> <p>23 remediation, correct?</p> <p>24 MR. MILLER: Objection. That calls for a legal</p> <p>25 conclusion. It's vague and ambiguous as to what "harm"</p>	<p style="text-align: right;">Page 16</p> <p>1 THE WITNESS: Prior to the District's belief or</p> <p>2 understanding or knowledge that contamination was not</p> <p>3 going to be captured or contained by any actions done at</p> <p>4 the site by the owner.</p> <p>5 BY MR. FINSTEN:</p> <p>6 Q. Okay. I'd like you to focus on the phrase</p> <p>7 "real hydrogeologic evidence."</p> <p>8 So prior to -- am I correct in reading this</p> <p>9 statement as saying that prior to the detection in the</p> <p>10 production well associated with Plume 1, there was no</p> <p>11 real hydrogeologic evidence that MTBE had escaped?</p> <p>12 A. Well, there was none that I had, you know. So</p> <p>13 I made the statement that that was the first real</p> <p>14 evidence in my mind that it was clear that any -- any</p> <p>15 actions taken at the site had failed.</p> <p>16 Q. And there was no -- I mean there was none that</p> <p>17 the District had, correct?</p> <p>18 A. I was not aware of any at the District at the</p> <p>19 time I made the statement. I'm -- I'm not aware of any</p> <p>20 now.</p> <p>21 Q. Okay. I mean, just to clarify -- and I</p> <p>22 apologize if it seems like I -- I don't mean to be</p> <p>23 bullying or repeating, you know. I just want to try to</p> <p>24 understand, because you're here designated to testify on</p> <p>25 behalf of the District as a designated witness, but the</p>
<p style="text-align: right;">Page 15</p> <p>1 means.</p> <p>2 MR. FINSTEN: Let me rephrase.</p> <p>3 BY MR. FINSTEN:</p> <p>4 Q. Orange County Water District believes it does</p> <p>5 not have a duty to act until the contamination escapes</p> <p>6 remediation at the site, correct?</p> <p>7 A. I --</p> <p>8 MR. MILLER: Vague on "duty."</p> <p>9 Go ahead.</p> <p>10 THE WITNESS: It depends on what you're talking</p> <p>11 about. Once it has left the site and then there is</p> <p>12 no -- no effort, no action to try and contain or collect</p> <p>13 contamination back or recover it or even investigate the</p> <p>14 extent in which it's left the site, then the District</p> <p>15 has felt the need to step in and actually investigate</p> <p>16 and take actions on its own.</p> <p>17 In this case, that was determined -- I can't</p> <p>18 say exactly when that was determined, but they decided</p> <p>19 that the District was going to have to take some action.</p> <p>20 BY MR. FINSTEN:</p> <p>21 Q. Okay. And but prior to that, the District has</p> <p>22 no need to take any action; is that correct?</p> <p>23 MR. MILLER: Vague and ambiguous. Are you</p> <p>24 talking about at this site?</p> <p>25 MR. FINSTEN: Yes.</p>	<p style="text-align: right;">Page 17</p> <p>1 District had no real hydrologic -- hydrogeologic</p> <p>2 evidence that MTBE had escaped prior to the detection in</p> <p>3 the production well associated with Plume 1?</p> <p>4 MR. MILLER: That's been asked and answered.</p> <p>5 BY MR. FINSTEN:</p> <p>6 Q. Oh, I'm just trying -- oh, I'm sorry. I'm just</p> <p>7 trying to clarify. This isn't about personal knowledge</p> <p>8 of you. This is about the District's knowledge.</p> <p>9 A. I'm not aware of any.</p> <p>10 Q. Okay. Thank you. Sorry about that.</p> <p>11 Now, aside from what is stated in the</p> <p>12 declaration, what other real hydrogeologic evidence</p> <p>13 exists that MTBE contamination at the station had</p> <p>14 escaped remediation at the time that you signed this in</p> <p>15 2009, June?</p> <p>16 A. I'm not clear on your question. I believe --</p> <p>17 are you asking me what -- if there's any evidence</p> <p>18 subsequent to my declaration?</p> <p>19 Q. Yeah. What other real hydrogeologic evidence</p> <p>20 does the District possess that MTBE had escaped</p> <p>21 remediation at the site?</p> <p>22 A. I have nothing to offer. I'm not aware of any.</p> <p>23 Q. Okay.</p> <p>24 <u>A. Most of our recent efforts have been focused on</u></p> <p>25 <u>the stations that we're going to be investigating. So</u></p>

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1 we haven't been spending as much time on -- on these
2 stations.

3 Q. Okay. And I asked the question between -- you
4 know, at the time that you signed it in June 2009, does
5 the same answer apply today? In other words, has the
6 District learned any further -- learned of any further
7 real hydrogeologic evidence that MTBE has escaped
8 between June and now?

9 A. No. We have -- we have no well data, no
10 additional data than we had then.

11 Q. Okay. Now, the MTBE detection in the
12 production well associated with Plume 1, the production
13 well that is described in your declaration, that would
14 be -- well, I don't want to hide the ball. And it's not
15 a memory test. So let me mark the next exhibit.

16 (Bolin Exhibit 3 was marked.)

17 BY MR. FINSTEN:

18 Q. Exhibit 3 is Plaintiff's Local Rule 56.1
19 Statement in Support of Response to Defendants' Further
20 Supplemental Brief on Statute of Limitations, also filed
21 June 3rd, 2009.

22 And before I -- Mr. Bolin, have you seen this
23 document before?

24 A. I don't recall.

25 Q. Okay. Just by way of explanation, this was

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1 part of the filing that the Water -- the Orange County
2 Water District made during a supplemental briefing on
3 the statute of limitations. It was filed at the same
4 time that your declaration was, and it cites to your
5 declaration. And I would direct you to page 3 of this
6 statement, which includes the data on ARCO 1887.

7 A. Okay. I see it.

8 Q. And the first column contains OCWD's accrual
9 dates and supporting assertions. And it reads: "Claims
10 alleged to accrue on August 3rd, 2005." And then
11 there's a cite to a letter from Mr. Axline. "This date
12 is based on an MTBE detection in Production Well
13 NB-TAMD." And then there's a cite to another letter
14 from Mr. Axline.

15 Do you see that?

16 A. Yes, I do.

17 Q. Okay. So does this establish that the
18 production well in Plume 1 that you were referring to in
19 your declaration was a detection in NB-TAMD on
20 August 3rd, 2005?

21 A. Yes. That is the date at which we detected
22 MTBE in the well.

23 Q. Okay. And prior to August 3rd, 2005, the
24 District had no real hydrogeologic evidence that MTBE
25 had escaped remediation, correct?

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1 MR. MILLER: That's been asked and answered,
2 Counsel.

3 MR. FINSTEN: Well, no, I'm just trying to get
4 the date, because that hasn't -- this date is not in his
5 declaration.

6 THE WITNESS: Yes. I believe this is the first
7 occurrence where we work and -- we had real
8 hydrogeologic evidence that MTBE had left the -- all the
9 remedial actions at the site.

10 (Bolin Exhibit 4 was marked.)

11 BY MR. FINSTEN:

12 Q. Okay. Next I'd like to mark Exhibit 4. And
13 Exhibit -- I'm sorry. Sorry about that.

14 Exhibit 4 is a quarterly update report
15 submittal for ARCO Station 1887, dated June 9, 2005.
16 It's addressed to Ms. Kathryn Cross of the Orange County
17 Health Care Agency from Delta Environmental Consultants.

18 And you are familiar with quarterly monitoring
19 reports for station cleanup, correct?

20 A. I know what they are.

21 Q. Okay. And -- let's see. And this was
22 available to you prior to your June 3rd, 2009,
23 declaration, correct?

24 A. Available to me in what way?

25 Q. Let me rephrase it. This is a publicly

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1 available document, correct?

2 A. To my knowledge.

3 Q. Okay. And it was publicly available prior to
4 June 3rd, 2009, correct?

5 A. I believe it was.

6 Q. Okay.

7 A. That's not always true. Sometimes these
8 documents come in and they aren't released to the public
9 until sometime after the date of the document.

10 Q. I understand. But the District was aware of
11 the contamination issues at this site in 2005, correct?

12 A. I believe we were, but I don't know --

13 MR. MILLER: Excuse me, Counsel. You're now
14 asking about events predating 2008.

15 MR. FINSTEN: No. I was just trying to
16 establish, is it available to him in 2009.

17 MR. MILLER: I understand that, but that's not
18 the question that was asked. And we should confine
19 ourselves to the appropriate period.

20 MR. FINSTEN: I will.

21 BY MR. FINSTEN:

22 Q. And this is all the appropriate period, because
23 I'm asking about whether it was -- the first question
24 was: Is it available in 2009? And if that wasn't the
25 first question, let me rephrase.

6 (Pages 18 to 21)

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1 BY MR. FINSTEN:

2 Q. Let's see. All right. Let's go back to the
3 declaration, Exhibit 2. We were talking about 1887,
4 page 6. I want to focus on the asserted detection in
5 the production well.

6 Does the District have real hydrogeologic
7 evidence that MTBE contamination, specifically from this
8 station, reached NB-TAMD?

9 A. We can't be certain which station it came from,
10 but there is a very strong likelihood that this is a
11 source of that contamination.

12 Q. Okay. That likelihood is not real
13 hydrogeologic evidence, is it?

14 MR. MILLER: Objection. That's argumentative
15 and vague.

16 THE WITNESS: The detection in the well is.

17 BY MR. FINSTEN:

18 Q. Okay. The detection in the well is real
19 hydrogeologic evidence that there's been a detection in
20 the well?

21 A. We know that MTBE does not occur naturally in
22 our environment. We know that the source of MTBE is
23 fuel related. We know that we have confirmed sources
24 all within reach of that well. We know that those
25 sources are upgradient of that well. We know that there

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1 has been releases from those sources that could have
2 migrated down into the well.

3 In this case, we can't be certain which station
4 it is, but this particular station is certainly one of
5 the likely sources of the contamination.

6 Q. Okay. What is the basis for the District's
7 belief that this station is certainly one of the likely
8 sources?

9 A. We covered all this before.

10 Q. Well, except -- all right. Except that we
11 haven't because we didn't talk -- we didn't have your
12 declaration.

13 MR. MILLER: Then, Counsel, this is -- what
14 you're asking about is not in the declaration, and you
15 did ask about it in the prior deposition.

16 MR. FINSTEN: It is most certainly in the
17 declaration. It says right here, "The first real
18 hydrogeologic evidence that MTBE escaped was the MTBE
19 detection in the production well associated with the
20 plume." That's the first time that we had heard that in
21 this 2009 declaration. So I, you know --

22 MR. MILLER: But the testimony he just gave was
23 given in 2008. Asking him to repeat it is an abuse --

24 MR. FINSTEN: Okay.

25 MR. MILLER: -- of the discovery process. It's

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1 the very reason I had concerns about these depositions.

2 MR. FINSTEN: Okay. Let me rephrase it to
3 alleviate your concerns.

4 BY MR. FINSTEN:

5 Q. Since 2008, has the District learned of any
6 new real hydrogeologic evidence that links Station
7 1887 -- the contamination at 1887 with the Production
8 Well NB-TAMD?

9 A. We don't have any new evidence of our own.

10 We're in the process of conducting our own
11 investigation.

12 Q. All right. Have any of the District's
13 contractors gotten any evidence of any real
14 hydrogeologic evidence that MTBE at the station has
15 traveled to the well since 2008?

16 A. Not yet.

17 Q. Thanks.

18 (Bolin Exhibit 5 was marked.)

19 BY MR. FINSTEN:

20 Q. Let's mark Exhibit 5. Exhibit 5 is a Hargis
21 Site Summary for ARCO 1887. It's marked Global ID
22 No. T0605900790. And it is Bates-marked
23 OCWD-MTBE-001417668 through -720.

24 And, Mr. Bolin, you've seen this document
25 before?

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1 A. Yes.

2 Q. Okay. And this is a site summary as discussed
3 and produced by Hargis as -- and this is just
4 foundation, Mr. Miller -- as discussed in Mr. Herndon's
5 deposition on Monday, the 9th, correct?

6 MR. MILLER: This document wasn't shown to
7 Mr. Herndon in his depo.

8 MR. FINSTEN: But he described what these were.
9 All I'm trying to -- I'll withdraw the question. I'm
10 just trying to establish what it is. And if he knows
11 what it is, that's good enough for me.

12 BY MR. FINSTEN:

13 Q. Now, the first page of this, the fourth line
14 down, it says, "Last document reviewed September 19,
15 2008," correct? The front page.

16 A. I'm looking -- you said fourth line down?

17 Q. Fourth line from the top, not a
18 bullet point. Above -- the first line
19 above --

20 A. Oh, I see it.

21 Q. -- the first three issues.

22 A. Yes, I see it.

23 Q. Okay. And the documents that Hargis reviewed
24 in preparation of this report include documents produced
25 by the parties in the litigation and documents that are

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1 publicly available on GeoTracker, correct?
 2 A. I believe that's correct.
 3 Q. Do you know of any other documents that might
 4 have been reviewed by Hargis in preparation of this
 5 report?
 6 A. I do --
 7 MR. MILLER: Calls for speculation. Lacks
 8 foundation.
 9 THE WITNESS: I do not.
 10 BY MR. FINSTEN:
 11 Q. Okay. Has anyone from the District or Hargis
 12 reviewed any documents from the station since the date
 13 of this report, September 19th, 2008?
 14 MR. MILLER: Same objections.
 15 MR. FINSTEN: Let me break it down. It was
 16 compound.
 17 BY MR. FINSTEN:
 18 Q. Has anyone from the District reviewed any
 19 documents for this station since September 19th, 2008?
 20 A. Yes.
 21 Q. Whom?
 22 A. I did.
 23 Q. And when did you review documents for the
 24 station?
 25 A. I can't be specific as to what the dates are.

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1 We generally keep up with activities at the various
 2 stations as time goes on.
 3 Q. Okay. So this review typically includes
 4 review of the quarterly monitoring reports of the
 5 station?
 6 A. Yes.
 7 Q. Okay. And you try to do this
 8 contemporaneously, but you're not exactly sure --
 9 A. We --
 10 Q. -- what dates, right?
 11 A. We do this occasionally. We don't always
 12 access or look to see if there's any new documents. We
 13 don't do this every day.
 14 Q. Understood.
 15 A. We don't do this every week. We may not even
 16 do this every month, but we do it periodically to catch
 17 up with activities --
 18 Q. Okay.
 19 A. -- at various sites.
 20 Q. Does the District know whether or not Hargis
 21 has reviewed any more documents from this station?
 22 MR. MILLER: Since?
 23 BY MR. FINSTEN:
 24 Q. Since the last document reviewed in the report.
 25 A. I can't be certain.

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1 Q. Okay.
 2 A. I -- I believe they -- I believe they have, but
 3 I -- I couldn't tell you which documents or when they
 4 were reviewed.
 5 Q. Understood.
 6 Now, in authorizing the work by Hargis at this
 7 station, what sort of guidance did the Water District
 8 give Hargis about what it was supposed to do?
 9 MR. MILLER: That's overbroad. Calls for a
 10 narrative. The best evidence is the work plan.
 11 THE WITNESS: We asked them for a cost
 12 estimate, and we provided them an outline of scope of
 13 work, which was consistent with our prior contractor,
 14 Komex, that became WorleyParsons, who was no longer able
 15 to serve us. The work had been outlined for Komex, and
 16 Hargis was asked to put together a work plan and cost
 17 for doing essentially the same work.
 18 BY MR. FINSTEN:
 19 Q. Okay. Did the District -- in terms of what
 20 they were looking for, did the District give Hargis any
 21 instruction about, for instance, looking for commingling
 22 of contamination with other stations?
 23 A. I don't recall specifically highlighting that
 24 as a task. I know we've had discussions with Hargis
 25 that it is possible there has been some commingling, but

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1 we didn't specifically tell them to look for that, that
 2 I recall.
 3 Q. What about potential pathways to the wells and
 4 the stations focused on?
 5 A. If you're asking about the -- the designated
 6 wells, we weren't asking them -- that was not part of
 7 their task at the time. They were looking at the sites.
 8 Q. No. I'm sorry. Let me clarify. I'm asking --
 9 MR. MILLER: Excuse me. You cut off his
 10 answer. I'm concerned about that.
 11 MR. FINSTEN: Well, then it's because of the
 12 way that I asked the question. Let me retract that.
 13 And I apologize.
 14 MR. MILLER: If you want to withdraw both the
 15 question and partial answer, that's fine.
 16 MR. FINSTEN: That's fine. I will take back,
 17 because I could just tell that I -- that I asked the
 18 question wrong. I was asking about potential migration
 19 paths to the wells in the production -- in the focus
 20 plume or any wells.
 21 BY MR. FINSTEN:
 22 Q. Did the District give any guidance to Hargis
 23 about that?
 24 A. It's still how I understood your previous
 25 question. I think that's what I was answering, is we

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1 didn't specifically ask them to identify -- to focus
2 on -- on working on pathways from the station to the
3 designated wells. That was something coming up in the
4 future.

5 This -- this round of work was specifically to
6 summarize the stations and contaminations; identify
7 releases and look at the localized hydrogeology; and
8 then determine whether contamination was leaving --
9 was -- it migrated beyond property boundaries, the --
10 the limits of the wells, whether the wells or
11 investigations that had been conducted thus far had
12 delineated contamination laterally or vertically.

13 Q. Okay. Now, who at the Water District received
14 the Hargis reports?

15 A. I believe they came directly to me.

16 Q. Okay. And did you -- and you read it, correct?

17 A. Yes.

18 Q. Okay. Did you give the report to anybody else
19 at the District for review?

20 A. They were available to Roy Herndon.

21 Q. Do you know if Mr. Herndon reviewed the report
22 of the station?

23 A. I do not.

24 Q. Did you ever have any conversations with
25 Mr. Herndon about the Hargis report of the station?

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1 A. In general terms, I don't recall having any
2 discussions with Mr. Herndon specifically about this
3 station and this report.

4 Q. Okay. Do you recall any conversations with
5 anybody else at the Water District about this station or
6 this report?

7 A. Not specifically about this station and this
8 report.

9 Q. Okay. Were there any meetings at OCWD where
10 this station or this report would have been discussed?

11 A. No meetings -- I'm assuming you're talking
12 about with Hargis, but no meetings where we had
13 discussed this particular station and this report with
14 any specificity.

15 Q. What about internally within the Water
16 District, excluding Hargis, are there any discussions
17 about the conclusions in this report about this station?

18 A. I don't recall, again, any specific
19 conversation about this station and this report. I do
20 remember making some comments that everything that was
21 stated was not surprising to me or not new, that I had
22 already believed the conclusions or understood the
23 conclusions even before I had the report.

24 Q. Who -- and I apologize. Who is the -- who were
25 the comments made to?

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1 A. I believe it was Roy Herndon.

2 Q. Okay. So you weren't surprised -- you weren't
3 surprised by anything that you had seen in this report?

4 A. No.

5 Q. Okay. Aside from commissioning and receiving
6 this report, has the District taken any other steps to
7 investigate or remediate MTBE or TBA contamination at
8 this station since 2008?

9 A. Other than reviewing new documents as they were
10 made available, we have -- yes. Actually, the answer to
11 your question is yes.

12 Q. Okay. And what would those steps have been,
13 besides reviewing documents as they became available, as
14 you just mentioned?

15 A. Evaluating these sites. Because this is a site
16 in a designated plume that's been targeted for
17 investigation, this is one of the sites that we had
18 evaluated to determine whether this was a station we
19 were going to investigate specifically or not.

20 Q. Okay. And so this is a -- the District made
21 the determination to investigate this station further?

22 A. No. Not with the upcoming round of
23 investigation. This station was identified as one that
24 we were not going to include in this next round of
25 investigation.

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1 Q. And the next round of investigation that you're
2 referring to, that would be the next round of physical
3 investigation by Hargis?

4 A. Yes.

5 Q. That would involve the cone penetration testing
6 probes?

7 A. That's correct.

8 Q. And then the following round -- and this is,
9 again, just for my own understanding and background, not
10 to repeat what's been covered. The following round
11 would be construction of monitoring wells at the sites?

12 A. That's the plan.

13 Q. Okay. Sorry. I didn't mean to -- is that -- I
14 realize that was just for my own edification.

15 Why is this station not -- why -- let me
16 rephrase that.

17 Why did the District decide not to include this
18 station in the next round of investigation?

19 A. That's a discussion -- that was our conclusion
20 or our recommendation from our -- from Hargis. They had
21 looked at all the sites and discussed the sites,
22 presented their information to us, and they recommended
23 which stations that we would be investigating. This was
24 not one of them.

25 In this case, we chose G&M Oil No. 2 and --

10 (Pages 34 to 37)

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1 Q. You mean No. 4?
 2 A. I'm sorry. No. 4.
 3 Q. Yeah. A new station in the case. Sorry.
 4 A. And Exxon 4283.
 5 Q. Okay. And when Hargis made these
 6 recommendations, that was not part of the site summary,
 7 correct?
 8 A. That is correct.
 9 Q. Okay. So when did Hargis convey its
 10 recommendation about this station to the District?
 11 A. It was in a meeting -- and I can't recall the
 12 date of the meeting -- where Chris Ross from Hargis came
 13 in and presented his -- his information. We'd had
 14 discussions over the phone. I -- I couldn't give you a
 15 specific date as to when it became clear that this was
 16 going -- this was not going to be targeted for this next
 17 round of investigation, that we would defer this to a
 18 future round of investigation.
 19 Q. Okay. And did the District have any -- well,
 20 let me ask you. So this was a meeting with Chris Ross
 21 of Hargis and yourself, and anybody else at the
 22 District? Mr. Herndon?
 23 A. It was Mr. Herndon.
 24 Q. Okay. Anybody besides the three of you?
 25 A. Yes.

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1 Q. Who was that?
 2 A. Counsel.
 3 Q. Okay. Which counsel?
 4 MR. MILLER: This was already covered in the
 5 deposition of Mr. Herndon.
 6 MR. FINSTEN: I'm talking about this station,
 7 Duane.
 8 MR. MILLER: No. The meeting.
 9 MR. FINSTEN: The meeting where this station
 10 was discussed.
 11 MR. MILLER: That meeting was covered.
 12 MR. FINSTEN: Okay. I'll withdraw it. I trust
 13 you.
 14 BY MR. FINSTEN:
 15 Q. And I should have asked you this earlier. This
 16 document appears to be dated February 9th, 2009; is that
 17 correct? The bottom left corner.
 18 A. I see it. It's in the footer.
 19 Q. Yes.
 20 A. I -- I don't know what that means.
 21 Q. Well, is that about when the District received
 22 the document?
 23 A. That seems about right. And I honestly can't
 24 recall.
 25 Q. Okay. Let's see. Has the District discussed

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1 the Hargis site summary with anybody outside of the
 2 District? For instance -- let me be more specific --
 3 has the District discussed the Hargis report with
 4 anybody from the Regional Board?
 5 A. No, I don't believe so.
 6 Q. Or the Orange County Health Care Agency?
 7 A. I don't believe so.
 8 Q. Or any other local, state or federal
 9 regulators?
 10 A. Not that I'm not aware.
 11 Q. Hasn't released it to the public?
 12 A. No.
 13 Q. Okay.
 14 A. Well, let me -- no, we haven't released it to
 15 the public, but it -- I don't know whether it is subject
 16 to a public information request.
 17 Q. Okay. Fair enough. I would imagine that most
 18 things are.
 19 A. Well, with the --
 20 Q. Something for lawyers to fight about.
 21 A. With the proper protocol.
 22 Q. Right. Okay. Then the station generally, has
 23 the District discussed Station 1887 since 2008 with --
 24 have they discussed it with -- this 1887, with the
 25 Regional Board?

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1 A. I don't recall any specific discussions about
 2 1887 with the Regional Board.
 3 Q. Or the Health Care Agency?
 4 A. Or the Health Care Agency.
 5 Q. Or any other regulators?
 6 A. I believe it's under the oversight of the
 7 Health Care Agency. Geniece Higgins is the case manager
 8 over there. I've had conversations with her about
 9 sites. I don't recall whether this was one of the sites
 10 or not.
 11 Q. What else has the District done with the Hargis
 12 report since receiving it? Anything that we haven't
 13 covered?
 14 MR. MILLER: That's overbroad. Calls for a
 15 narrative. It's not covered by the notice, so he's not
 16 testifying as a PMK.
 17 MR. FINSTEN: Why not? Why is it not covered
 18 by the notice? This report was produced -- I mean, was
 19 created and produced after 2000. I'm talking about the
 20 Hargis reports.
 21 MR. MILLER: It's not in the designated issues.
 22 MR. FINSTEN: Specifically the Hargis? All
 23 right. It -- I think it relates very clearly to
 24 designated -- parts of Designated Issues 2 through 4, as
 25 well as 7 through 8. But we don't have to fight about

11 (Pages 38 to 41)

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<p>1 that.</p> <p>2 BY MR. FINSTEN:</p> <p>3 Q. You can answer the question.</p> <p>4 A. Would you repeat the question, please?</p> <p>5 MR. FINSTEN: Kim, if you would.</p> <p>6 (The following record was read by the reporter:</p> <p>7 "Q. What else has the District done with</p> <p>8 the Hargis report since it received it?")</p> <p>9 THE WITNESS: It's in the file. It's been the</p> <p>10 topic of general discussion, not necessarily specific</p> <p>11 discussion, this report specifically. We have not sent</p> <p>12 it out to any parties outside of the District that I am</p> <p>13 aware of. I would say we haven't done -- if you can be</p> <p>14 specific what else have we done, maybe I could answer</p> <p>15 your question better.</p> <p>16 BY MR. FINSTEN:</p> <p>17 Q. I think that we've covered it.</p> <p>18 All right. Let's move on. I'm going to mark</p> <p>19 Exhibit 60 -- I'm -- 60 -- 6.</p> <p>20 MR. MILLER: Where did the day go?</p> <p>21 (Bolin Exhibit 6 was marked.)</p> <p>22 BY MR. FINSTEN:</p> <p>23 Q. This is an exhibit you should undoubtedly be</p> <p>24 familiar with. Thank you.</p> <p>25 Exhibit 6, today's Exhibit 6, is previously</p>	<p>1 detailed contaminant hydrogeologic analysis of the</p> <p>2 site. The District did that with the Hargis report,</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Has it taken any other steps to</p> <p>6 accomplish this, besides the Hargis report?</p> <p>7 A. No. No other -- if you're -- are you asking me</p> <p>8 about sample collection or drilling or other data</p> <p>9 collection along those lines?</p> <p>10 Q. I'm going to go through this as it applies to</p> <p>11 the station in the last -- but I'm starting with what's</p> <p>12 described as "detailed contaminant hydrogeologic</p> <p>13 analysis."</p> <p>14 A. Okay. That was what Hargis had conducted for</p> <p>15 us.</p> <p>16 Q. Okay. Does the District have any plans to do</p> <p>17 any further detailed contaminant hydrogeologic analysis</p> <p>18 at the site?</p> <p>19 A. Tentative plans. As I said already, this</p> <p>20 station wasn't targeted for this -- this next round of</p> <p>21 investigation, but it was deferred to a future round of</p> <p>22 investigation.</p> <p>23 Q. "Conceptual hydrogeologic investigation, define</p> <p>24 vertical and lateral." I assume that means delineation.</p> <p>25 Has the District taken any steps to accomplish</p>
Page 43	Page 45
<p>1 marked Exhibit 50 on the 8/20/08 deposition of Roy</p> <p>2 Herndon. And I believe it was marked Exhibit 48 in one</p> <p>3 of your prior depositions. It's Bates-marked</p> <p>4 OCWD-MTBE-001-186470 through -72.</p> <p>5 MR. MILLER: Counsel, this exhibit was the</p> <p>6 subject of extensive questioning in 2008.</p> <p>7 MR. FINSTEN: I know. I know. And I will</p> <p>8 limit all of my questions to post-2008 regarding this</p> <p>9 district.</p> <p>10 BY MR. FINSTEN:</p> <p>11 Q. Bearing in mind what the District learned from</p> <p>12 the Hargis report and whatever else the District has</p> <p>13 learned about the station since 2008 -- let's see.</p> <p>14 Has the District made any decision about --</p> <p>15 let's see. Let's see, looking at the -- has it</p> <p>16 conducted any detailed contaminant hydrogeologic</p> <p>17 analysis regarding existing data and information?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And that would be the Hargis report?</p> <p>20 A. Well, the Hargis is a detailed analysis. We</p> <p>21 also do routine MTBE testing in our wells.</p> <p>22 Q. Those would be the production wells?</p> <p>23 A. Production wells and monitoring wells.</p> <p>24 Q. All right. I want to limit this to the context</p> <p>25 of the site, the detailed -- this particular question,</p>	<p>1 that since 2008?</p> <p>2 A. Actually, that is to -- the conceptual</p> <p>3 hydrogeologic investigation is putting together the</p> <p>4 hydrogeologic understanding of how water flows and moves</p> <p>5 in this area, and that's what the vertical and lateral</p> <p>6 talks about.</p> <p>7 Q. Oh, okay.</p> <p>8 A. Looking at it vertically as well as laterally.</p> <p>9 That, again, is part of Hargis' work. That's one of the</p> <p>10 things they were doing for us.</p> <p>11 Q. Okay. And the next one down is "contaminant</p> <p>12 delineation, three dimensions."</p> <p>13 Has the District taken any steps to acquire</p> <p>14 sites for monitoring wells: Land purchases, easements</p> <p>15 or eminent domain at the station?</p> <p>16 A. No.</p> <p>17 Q. Okay. And does it have any plans to do so in</p> <p>18 the future?</p> <p>19 A. We have tentative plans to do that.</p> <p>20 Q. Okay. Permitting?</p> <p>21 A. All of that.</p> <p>22 Q. Has not done yet --</p> <p>23 A. That is correct.</p> <p>24 Q. But it has tentative plans?</p> <p>25 A. Yes.</p>

12 (Pages 42 to 45)

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<p>1 estimate -- can the District estimate when in the future 2 they might engage in any of these steps at this station? 3 MR. MILLER: What steps? The question is vague 4 and ambiguous. 5 MR. FINSTEN: Well, I'm -- I can ask it for 6 each -- 7 MR. MILLER: Or compound. 8 MR. FINSTEN: It is very compound. I can go 9 back to the list. 10 MR. MILLER: Are you talking about the 11 contaminant flow analysis you just asked about? 12 BY MR. FINSTEN: 13 Q. Well, let's do that. Okay. Let's start with 14 contaminant flow analysis. 15 Does the District have any estimate to -- when 16 it might start any of this at 1887? 17 A. No, not -- not at this site. Frankly, we have 18 targeted sites that we're going to be conducting our 19 investigation. As I said already, this is not one of 20 the sites that's targeted for this next round. It's 21 deferred to the future. 22 But we wish we would could do it all -- all at 23 once. We wish there was enough money to do that. We 24 wish we had the staff to do that, but frankly we don't. 25 So we had to defer -- we have to be selective, and we</p>	<p>1 Q. Okay. "Routine groundwater monitoring," any 2 idea when that might start? 3 A. The same answer. 4 Q. Okay. "Aquifer testing"? 5 A. That would be the same answer. 6 Q. Okay. "Soil vapor studies"? 7 A. That's possible, but we don't have a specific 8 date targeted for doing that. 9 Q. Okay. Would that be something that would be -- 10 if it were to happen, would it be after aquifer testing 11 and routine groundwater monitoring sampling? 12 A. No. 13 Q. No? 14 A. No. 15 Q. Okay. Could you explain? 16 A. Soil vapor testing is sometimes used as a 17 screening method for identifying target horizons that we 18 want to investigate further. So vapor surveys are 19 relatively cheap and fast compared to some of the other 20 activities. So we might go in and do that first and 21 then follow up with more -- and use that information, 22 that data, to help us optimize the target locations for 23 doing additional investigation. 24 Q. What about "acquisition of sites for monitoring 25 wells, land purchase easements, eminent domain"?</p>
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<p>1 deferred this station to sometime in the future. We 2 don't have specific dates. 3 Q. Okay. What I -- all right. I guess what I'm 4 asking is, when you say "sometime in the future," and I 5 realize that you can't give me an exact answer, I'm 6 asking you to estimate. Let me try to be a little more 7 concrete. 8 Is it safe to say that there won't be any 9 contaminant flow analysis done at the station during the 10 coming year? 11 A. In 2011, probably not. 12 Q. Okay. Certainly -- all right. Let me 13 narrow it a little further. How about in the 14 next 12 months through August of 2011? 15 A. Okay. I think I just answered that. If I said 16 not in 2011, then probably not within the next 12 months 17 either. 18 Q. Okay. Okay. During 2012? 19 A. I don't know. 20 Q. Okay. 21 A. I can't say. 22 Q. "Fate and transport analysis," do you have 23 any estimation when that would take place at the 24 station? 25 A. That's the same answer.</p>	<p>1 A. Possible. It's very time consuming. Sometimes 2 those activities are started early on in an 3 investigation. But right now I couldn't tell you when 4 we would do that. We don't usually do that until we 5 have an idea where we want to install wells. 6 Q. So that would be something that would take 7 place after the groundwater sampling -- routine 8 groundwater monitoring -- I'm sorry. It would be before 9 that or -- let me rephrase, because I'm a little 10 confused. And I apologize. 11 The routine groundwater monitoring that's 12 listed on this, would those be in currently existing 13 monitoring wells at the site or in wells that the 14 District would intend to construct? 15 A. It could be both. 16 Q. Okay. So would you go about acquiring sites 17 for monitoring wells before or after you started routine 18 groundwater monitoring at the site? 19 A. It could be after. If we decided we were going 20 to start collecting data from existing wells, the site 21 acquisition would be for new wells. 22 Q. Okay. Let's look at page 2 of the exhibit. 23 MR. MILLER: How about if we take our morning 24 coffee break? We've been going about an hour. 25 MR. FINSTEN: We can do that.</p>

<p style="text-align: right;">Page 58</p> <p>1 it.</p> <p>2 <u>Has the District, since 2008 -- and I</u></p> <p>3 <u>apologize, because we got a little bit sidetracked</u></p> <p>4 <u>here -- taken any steps to do a technology review and</u></p> <p>5 <u>selection for remediation, action planning purposes</u></p> <p>6 <u>relating to contamination at this station, 1887?</u></p> <p>7 A. No, not specific to this station. Broadly</p> <p>8 speaking, we looked at the technologies that are being</p> <p>9 applied to this station in kind of keeping up with the</p> <p>10 station activities. We've looked to see what has been</p> <p>11 done since -- you know, as -- as we move on in time.</p> <p>12 And at this station, they have changed their</p> <p>13 technology a little bit, but I don't think that's what</p> <p>14 you're asking me. You're not asking me what has been</p> <p>15 happening at this station. You're asking me what the</p> <p>16 District plans to do at this station.</p> <p>17 Q. Correct. And so the District has engaged in</p> <p>18 some review of available technologies that they may or</p> <p>19 may not want to see implemented at this station relating</p> <p>20 to contamination at this station?</p> <p>21 A. No, not the part where you say "may or may not</p> <p>22 want to see implemented." I simply look to see what the</p> <p>23 station is doing about cleaning up their own</p> <p>24 contamination.</p> <p>25 Q. Okay. Has the District got any plans to do</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. What was the technology? I'm sorry.</p> <p>2 A. Oxidant injection --</p> <p>3 Q. Oxidant?</p> <p>4 A. -- pilot. Yeah.</p> <p>5 Q. Okay. Is persulfate an oxidant?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. Has the District --</p> <p>8 A. Oh, yes. I'm sorry. Yes --</p> <p>9 Q. Okay.</p> <p>10 A. -- it is.</p> <p>11 Q. Could I just see it? I don't even know</p> <p>12 if I want to mark it, but I just want to see it.</p> <p>13 A. I had forgotten they were using persulfate as</p> <p>14 their oxidant.</p> <p>15 Q. Okay. Did you bring any other documents that</p> <p>16 haven't been produced in the litigation? And I realize</p> <p>17 it's a publicly available document. I just want to --</p> <p>18 MR. MILLER: And we alerted you -- the</p> <p>19 record should reflect that we were going to be using</p> <p>20 certain types of documents in the deposition, which we</p> <p>21 understood you already have copies of. And it didn't</p> <p>22 seem useful to --</p> <p>23 MR. FINSTEN: I was told the quarterly -- the</p> <p>24 most recent quarterly monitoring reports.</p> <p>25 MR. MILLER: Yes.</p>
<p style="text-align: right;">Page 59</p> <p>1 <u>this in the future?</u></p> <p>2 A. <u>We have tentative plans to investigate and</u></p> <p>3 <u>remediate all of these sites. We don't have specific</u></p> <p>4 <u>plans, and we have not selected a technology to apply at</u></p> <p>5 <u>this station, other than granular activated carbon, GAC,</u></p> <p>6 <u>which is common technology used today for MTBE.</u></p> <p>7 There -- there may be other technologies that</p> <p>8 we'll take a close look at. We might want to augment</p> <p>9 using GAC, G-A-C, at this station, but we haven't come</p> <p>10 to a definitive conclusion yet.</p> <p>11 Q. Well, let me ask you about what's ongoing at</p> <p>12 this station for a second. You mentioned that there</p> <p>13 have been some -- the District observed some changes in</p> <p>14 their remedial technologies at the station.</p> <p>15 Could you explain what those changes were?</p> <p>16 A. Yes. I -- there's a document, it's a public</p> <p>17 document, that I copied and brought with me just for the</p> <p>18 purpose of answering questions. And it is a -- a letter</p> <p>19 by the Health Care Agency dated March 15, 2010. It</p> <p>20 addresses a work plan for oxidant injection pilot</p> <p>21 testing dated August 11, 2009. It just talks about what</p> <p>22 the site owner is planning to do to clean up</p> <p>23 contamination of the site. This is not a -- a</p> <p>24 technology that had been applied previously, so this is</p> <p>25 new.</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. FINSTEN: That's not --</p> <p>2 MR. MILLER: And things that have already been</p> <p>3 produced to you, like the Hargis reports were mentioned.</p> <p>4 MR. FINSTEN: Right. Okay. I mean --</p> <p>5 MR. MILLER: And it didn't seem productive to</p> <p>6 give you still another copy of what we all have.</p> <p>7 MR. FINSTEN: Okay.</p> <p>8 MR. MILLER: So we alerted you to that, but</p> <p>9 didn't separately produce it because it's our</p> <p>10 understanding that these reports are virtually</p> <p>11 ubiquitous among the local law firms.</p> <p>12 MR. FINSTEN: Okay.</p> <p>13 BY MR. FINSTEN:</p> <p>14 Q. Did the District approach the Health Care</p> <p>15 Agency or have any conversations with the Health Care</p> <p>16 Agency about proposed changes in their remediation</p> <p>17 technology at the station?</p> <p>18 A. No. But you've asked me that question already,</p> <p>19 whether we had discussions about this site. So the</p> <p>20 answer is no.</p> <p>21 Q. Okay. Does the District have any position as</p> <p>22 to about whether or not that the proposed changes are</p> <p>23 appropriate at this station?</p> <p>24 A. No.</p> <p>25 Q. Continuing along the list. "Remedial</p>

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1 BY MR. FINSTEN:
 2 Q. Okay. Now, at the time that Hargis wrote its
 3 report for ARCO 1887, however, the only well designated
 4 for this plume was NB-TAMD, correct?
 5 A. I don't recall the timing.
 6 Q. All right. Well, let's go back and look at
 7 Exhibit 5. And that's got the -- that's the Hargis site
 8 summary for the station.
 9 A. Oh, yeah. Okay. Yeah.
 10 Q. It's dated February 9th, 2009.
 11 A. Uh-huh.
 12 Q. So at that point in time, the only well in the
 13 focus plume was NB-TAMD, correct?
 14 A. I believe that's correct.
 15 Q. Okay. Did the District find it surprising when
 16 it received the Hargis report, that Hargis did not
 17 consider NB-TAMD in its station summary for ARCO 1887?
 18 MR. MILLER: Assumes facts not in evidence.
 19 THE WITNESS: No. That isn't necessarily what
 20 we asked them to do. We asked them to give us a summary
 21 of the site itself. And we didn't ask them to look for
 22 pathways to production wells. That's coming in a future
 23 phase of work.
 24 BY MR. FINSTEN:
 25 Q. Well, it discusses production wells, correct?

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1 A. Well, I'm not -- maybe I don't understand what
 2 you're asking me.
 3 Q. Let's look at Exhibit 5 again. The second
 4 page of Exhibit 5, first bullet -- first full
 5 bullet point discusses the location of HB-3A. The
 6 second bullet point discusses the location of HB-5.
 7 No discussion of NB-TAMD, correct?
 8 MR. MILLER: And HB-1.
 9 MR. FINSTEN: And H -- well, wait. Which HB-1
 10 are you talking about?
 11 MR. MILLER: Well, you pointed to a paragraph
 12 that doesn't just discuss HB-5. It also discusses FURU
 13 and HB-1.
 14 MR. FINSTEN: Correct. But I'm
 15 mentioning two stations -- or two wells that the
 16 District attempted to have newly added to the focus
 17 plume.
 18 BY MR. FINSTEN:
 19 Q. So it discusses HB-3A and HB-5, correct?
 20 A. Yes.
 21 Q. And it doesn't discuss HB -- or NB-TAMD, the
 22 only focus plume well at the time, correct?
 23 A. That's correct.
 24 Q. And the District didn't find it surprising at
 25 all?

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1 A. No. We didn't -- the paragraphs refer to the
 2 nearest major active supply well. It's just drawing
 3 attention to the nearest wells. We didn't ask them to
 4 look at all of the wells in the area, including the
 5 designated wells. So it didn't surprise us at all.
 6 Q. Okay. By the way, there's no real
 7 hydrogeologic evidence in this site summary suggesting
 8 MTBE had escaped remediation prior to August 3rd, 2005,
 9 is there?
 10 A. I believe there is.
 11 Q. What could you point to?
 12 A. Expert's opinion.
 13 Q. All right. Well, I'm talking about in this
 14 Hargis report.
 15 A. Yes.
 16 Q. Okay.
 17 A. It hasn't been -- contamination was released to
 18 the site. It's been connected to the site from the
 19 shallow zone, from the point of release, all the way
 20 into groundwater. It's been tracked to points where it
 21 has been identified and detected, but has not been
 22 delineated. Those are hydrogeologic conclusions.
 23 Q. All right. Let me rephrase the question.
 24 There's only -- there's no real hydrogeologic evidence
 25 in this site summary suggesting that MTBE had escaped

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1 remediation at the site prior to August 3rd, 2005,
 2 correct?
 3 A. No, I don't think that's correct.
 4 Q. Okay. But this was available to you when you
 5 made your declaration, correct?
 6 A. Yes.
 7 Q. Okay. Then why is the evidence that you
 8 believe is there not discussed in your declaration?
 9 MR. MILLER: Assumes facts not in evidence.
 10 THE WITNESS: The --
 11 MR. MILLER: Calls for speculation.
 12 Go ahead.
 13 THE WITNESS: The evidence at the time of the
 14 declaration and -- what was the date of the declaration?
 15 BY MR. FINSTEN:
 16 Q. The declaration is dated June 3rd, 2009.
 17 A. Yes. After the report.
 18 Q. Yeah.
 19 A. Is that contamination was detected in NB-TAMD.
 20 And so we're attributing to -- that to a likely source,
 21 this being one of the likely sources. And that's
 22 hydrogeologic evidence that contamination has escaped a
 23 site and escaped remediation from the site.
 24 Q. Well, there's no discussion of NB-TAMD in the
 25 Hargis report, right?

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1 A. No, there isn't.
 2 Q. Okay. So what is the evidence that you believe
 3 demonstrates the contamination at the station had
 4 escaped remediation prior to August 3rd, 2005?
 5 MR. MILLER: Counsel, as asked, that goes into
 6 subjects covered in the 2008 deposition.
 7 MR. FINSTEN: This report was issued in 2009.
 8 And his declaration is from 2009 --
 9 MR. MILLER: I know --
 10 MR. FINSTEN: -- subsequent to this report, and
 11 that's what I'm asking.
 12 MR. MILLER: But that's not the way it was
 13 phrased. You need to listen to what you said.
 14 MR. FINSTEN: Okay. You can repeat the
 15 question.
 16 (The following record was read by the reporter:
 17 "Q. What is the evidence that you believe
 18 demonstrates MTBE contamination escaped
 19 remediation prior to August 3rd, 2005?")
 20 MR. MILLER: It doesn't reference his report.
 21 MR. FINSTEN: Okay.
 22 BY MR. FINSTEN:
 23 Q. What is the evidence in this report?
 24 A. August 3rd, 2005. I'm not -- is that the date
 25 of the detection? Is that what you're referring to?

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1 Q. That, yes.
 2 A. Okay. I don't know exactly when it escaped,
 3 except for the detections in wells that are downgradient
 4 and at the time of those detections.
 5 Q. Okay. And the only well that is discussed
 6 would have been N- -- it would be part of the focus
 7 plume is NB-TAMD, correct?
 8 A. That's part of the focus plume. There's the
 9 site-specific wells themselves.
 10 Q. You're talking about monitoring wells at the
 11 site?
 12 A. Yes.
 13 Q. Okay. All right. Well, looking back at your
 14 declaration, Exhibit 2, there is no real hydrogeologic
 15 evidence that MTBE had escaped the site from any of the
 16 monitoring wells, correct?
 17 A. Yeah, I -- I think there is. It's detected in
 18 the well, the downgradient direction, no --
 19 Q. I'm sorry. And I apologize.
 20 MR. MILLER: Excuse me. You're cutting off an
 21 answer.
 22 MR. FINSTEN: Okay. I just want to clarify
 23 which well -- what well he's talking about.
 24 MR. MILLER: You need to let him finish his
 25 answer.

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1 BY MR. FINSTEN:
 2 Q. What kind of wells? Monitoring wells -- I'm --
 3 distinguishing between monitoring wells and the
 4 production well associated with Plume 1 as discussed in
 5 your declaration.
 6 A. I'm referring to site-specific monitoring
 7 wells.
 8 Q. Okay. There are no real hydrogeologic evidence
 9 from those monitoring wells that suggested MTBE had
 10 escaped remediation prior to the detection in the
 11 production well that you mentioned in your declaration,
 12 correct?
 13 A. The detections in the site-specific monitoring
 14 wells downgradient, the farther extent from the -- from
 15 the well had detections that were not delineated
 16 afterwards. We don't know how far the contamination
 17 might have gone. We weren't certain of it until we had
 18 a detection in the Production Well N- -- NB-TAMD.
 19 That's when we were certain of it.
 20 But before that, it was undelineated, and we
 21 had no reason to believe that activities at the site
 22 weren't going to delineate the contamination, capture it
 23 and contain it. Only until we had the detection in the
 24 designated well were we certain that it would -- it had
 25 failed.

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1 Q. But you cannot confirm that the -- I'm sorry.
 2 Are you done?
 3 A. I am done.
 4 Q. You cannot confirm that the detection in
 5 NB-TAMD is directly attributable to the contamination
 6 from 1887 --
 7 MR. MILLER: Counsel --
 8 BY MR. FINSTEN:
 9 Q. -- can you?
 10 MR. MILLER: -- that was asked in 2008. You
 11 haven't laid a foundation for something occurring after
 12 to give him any basis for giving you an answer based on
 13 new information. So you're basically replotting old
 14 ground --
 15 MR. FINSTEN: I disagree.
 16 MR. MILLER: -- that was covered at length.
 17 MR. FINSTEN: I disagree.
 18 MR. MILLER: Well, that's fine. But if you
 19 stated the question as asked that has no temporal limit,
 20 you're repeating the prior deposition, and I'm going to
 21 have to instruct him not to answer.
 22 BY MR. FINSTEN:
 23 Q. When you wrote this declaration in 2009, you
 24 believed that there was no real hydrogeologic evidence
 25 that MTBE had escaped the remediation at the site

24 (Pages 90 to 93)

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<p>1 attributable to any monitoring well at the site, 2 correct? 3 A. It is correct that all we had were indicators, 4 and the first real hydrogeologic evidence was the 5 detection in NB-TAMD. 6 Q. Okay. I'm going to move on. 7 Since 2008, has the District done anything else 8 to learn about the hydrogeologic conditions and 9 circumstances in the areas that may -- that have been or 10 may be affected by contamination from the station, other 11 than the Hargis site summary? 12 MR. MILLER: That's compound. It's vague. 13 Go ahead and answer if you can. 14 THE WITNESS: I'm not certain what you're 15 asking me. If you're -- if you're talking about the 16 specific site, we've been monitoring reports that have 17 been generated by ARCO and ARCO's consultants. 18 If you're talking about geology, you know, in 19 the general proximity in that region, we're doing that 20 all the time. That's an ongoing endeavor. 21 BY MR. FINSTEN: 22 Q. Specifically in the region around the site? 23 A. Not specifically to this location, but just 24 understanding the hydrogeology in the basin, we're 25 looking at data all the time.</p>	<p>1 MR. MILLER: That's whether or not there was 2 data. That's not -- 3 MR. FINSTEN: With respect to any focus 4 station. 5 MR. MILLER: Right, but -- 6 MR. FINSTEN: Any information data reports or 7 documents obtained, received by the District. Okay. 8 Let me limit it to that. 9 MR. MILLER: Let me explain something, just so 10 you can understand. In order to determine if there is 11 evidence of a post, I believe you used, 2005 release. 12 MR. FINSTEN: No. I used May 6, 2000. 13 MR. MILLER: Fine. In order to determine that, 14 you would have to have that date in mind and you'd have 15 to do a detailed review of the data. 16 MR. FINSTEN: This is a yes-or-no question. 17 MR. MILLER: That question -- 18 MR. FINSTEN: I -- 19 MR. MILLER: Excuse me. When you look at this 20 notice, it focuses on June 1, 2008, in almost all the 21 questions. 22 MR. FINSTEN: You're right. Okay. 23 MR. MILLER: So you're presuming that he has 24 had an opportunity, as a person most knowledgeable, to 25 sit down, go through the data with the question you just</p>
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<p>1 Q. Okay. Since 2008, has the District learned any 2 facts to suggest any new releases of gasoline containing 3 MTBE at the station that has affected or may threaten 4 one of the focus wells? 5 MR. MILLER: Counsel, with all due respect, I 6 think it is beyond dispute that MTBE is not a legal 7 component of gasoline after December of 2003, if I 8 recall the date exactly. 9 MR. FINSTEN: I understand. Right. No. 10 MR. MILLER: So -- 11 BY MR. FINSTEN: 12 Q. I'll specify. It's going -- you're not going 13 to -- I mean, I'm asking about new releases post-May 6, 14 2000. 15 Have you learned anything in the last two 16 years -- have you learned any facts in the last two 17 years to suggest any post-May 6, 2000, releases of 18 gasoline up until 2003? 19 MR. MILLER: That's not in the deposition 20 notice. 21 MR. FINSTEN: That's 2008. Yeah, sure it is, 22 Duane. 23 MR. MILLER: Show me. 24 MR. FINSTEN: This is directly responsible -- 25 responsive to -- I'm going to say 3.</p>	<p>1 framed, that isn't in this notice, and develop an 2 informed answer, which he could do if it was in the 3 notice, but that's not what's here. 4 MR. FINSTEN: Okay. Are you done? 5 MR. MILLER: So you're asking for testimony 6 that exceeds -- 7 MR. FINSTEN: All right. 8 MR. MILLER: -- the notice. 9 MR. FINSTEN: I'm going to -- I appreciate the 10 guidance that you've attempted to give me. I don't mind 11 the speeches to an extent. But this is really not 12 something that can continue if we're going to finish 13 these stations today and finish the stations. So 14 if you've got an objection, make it and -- 15 MR. MILLER: I'm going to object on the grounds 16 that the question as asked is not relevant in the sense 17 that it is not covered by the deposition notice given. 18 There are dates in the notice. They vary from June 1, 19 2008, to July 2nd, 2010. 20 MR. FINSTEN: All right. It was -- 21 MR. MILLER: None of them suggest that the 22 witness, in order to properly prepare, should be looking 23 at the time period involved. In addition, Mr. Warner 24 ruled that the questions should be limited to the period 25 after the last notice.</p>

25 (Pages 94 to 97)

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1 suited for cleaning up MTBE? What regions are we
2 finding a lot of contamination? Where are the wells
3 that have been designated for the various plumes? Where
4 are the plumes? What are we going to do about that?
5 These kinds of discussions.

6 So in that sense, 1887 was included in most, if
7 not all of the discussions. If you're asking me how
8 many discussions there were or specifically when they
9 were, I couldn't tell you.

10 Q. Was it ever individually and specifically
11 identified in any of these discussions?

12 A. Oh, I -- I can't recall any specific reference
13 to 1887. I -- I can't say that it absolutely was never
14 discussed specifically. I'm sure I've had discussions
15 with Roy Herndon about 1887. I'm excluding discussions
16 with counsel.

17 I can't -- I don't recall having any specific
18 discussions with board members about any individual
19 station. Unless they came to us and asked us, we
20 wouldn't undertake a -- a discussion with them on that
21 level.

22 Q. Okay. On the next page, page 19, there's a
23 chart that lists reports that defendants have been
24 provided with copies of relating to each station and the
25 focus plumes. And I direct you to the second entry on

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1 the chart, site summary ARCO 1887, which references the
2 Hargis summary previously marked as Exhibit 5, correct?

3 A. Yes, I see that.

4 Q. Okay. Was this report ever provided to the
5 board of directors?

6 A. No.

7 Q. Okay. Fair enough.

8 Now, the answer to this interrogatory, as I
9 mentioned on page 17, references answers to
10 Interrogatories 1 and 2 of this set. So I would direct
11 you back to the answers to Interrogatory 1, which start
12 on page 5 and it states -- the answer starts: "On
13 March 23rd, 2005, during a regular meeting of the Orange
14 County Water District board of directors, the board
15 adopted the following resolution: Finding and
16 reaffirming that available funds had been and may
17 continue to be expended to perform investigation,
18 cleanup, abatement and remedial work to address MTBE
19 contamination and the threat of MTBE contamination in
20 the District service area, and that such expenditures
21 are required by the magnitude of the endeavor and the
22 urgency of prompt action necessary to prevent, abate and
23 contain threatened and existing MTBE
24 contamination" ...
25 Did I read that correctly?

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1 A. I believe so.

2 Q. Okay. Did the resolution mention Station 1887
3 specifically?

4 A. No, I don't believe it did.

5 Q. Did the board of directors ever specifically
6 authorize expenditure of available funds to perform
7 cleanup, abatement or remedial work at 1887?

8 A. No. They leave those decisions to the staff.

9 Q. Okay. Did the board ever make any findings,
10 determinations or decisions with respect to any of the
11 work done or needed to address the detection or presence
12 of MTBE or TBA at 1887?

13 A. Yes, they did.

14 Q. When did they do that?

15 A. Every time they authorized funds to be expended
16 for investigation and evaluation, it was understood
17 staff identifies those sites without communicating the
18 specific sites to board members. They don't get
19 involved in those details. So the expenditures or the
20 authorization of expenditures includes whatever sites we
21 identify as staff.

22 Q. So the board doesn't get into details about
23 expenditures at individual stations?

24 A. No.

25 Q. All right. On page 7 of this answer, which I

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1 think a lot of this is repeated in the chart that we've
2 already covered, halfway through the page -- this
3 doesn't appear to be -- there's a discussion of the
4 Toxic Cleanup Fund begins in 1986.

5 I'm mostly interested -- actually, I'm going to
6 ask about the sentence that begins four lines from the
7 bottom. "The District has expended \$892,230 from the
8 Toxic Reserve Fund in response to MTBE and/or TBA
9 contamination issues within the District's service area
10 as of June 2008."

11 Did I read that correctly?

12 A. I didn't -- oh, I see where you're looking.
13 Yes, I believe you did.

14 Q. Okay. What portion -- I'm sorry. What has
15 been -- first of all, what has been spent from the fund
16 since -- actually, I'm going to strike that question,
17 because that's not really specific to the station.

18 What portion has been spent on the station of
19 this \$92,000.

20 A. I believe you're asking me what portion of the
21 \$892,230 has been spent on ARCO 1887?

22 Q. Right.

23 A. I don't know. I -- I can't be certain. I
24 don't have a way of breaking that out.

25 Q. Okay. And of the funds that have been spent

30 (Pages 114 to 117)

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1 Bolin, corporate designee of the Orange County Water
 2 District in regards to production of documents of
 3 ARCO 1887, 3085, 6131. The time is approximately 3:18.
 4 We are now off the record.
 5 (The deposition was concluded at 3:18 p.m.)
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1 -----
 2 E R R A T A
 3 -----
 4 PAGE LINE CHANGE

5 REASON: _____
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 7 REASON: _____
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 9 REASON: _____
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 11 REASON: _____
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 21 REASON: _____
 22 _____
 23 REASON: _____
 24 _____
 25 REASON: _____

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REPORTER'S CERTIFICATION

1
 2
 3 I, Kimberly Thrall, Certified Shorthand
 4 Reporter and Registered Professional Reporter, in and
 5 for the State of California, do hereby certify:

6
 7 That the witness named in the foregoing
 8 deposition was, before the commencement of the
 9 deposition, duly administered an oath in accordance
 10 with the Code of Civil Procedure Section 2094; that
 11 the testimony and proceedings were reported
 12 stenographically by me and later transcribed through
 13 computer-aided transcription under my direction and
 14 supervision; that the foregoing is a true record of the
 15 testimony and proceedings taken at that time.

16
 17 IN WITNESS WHEREOF, I have hereunto subscribed
 18 my name this 24th day of August, 2010.
 19
 20
 21
 22
 23
 24
 25

 Kimberly S. Thrall, RPR, CSR No. 11594

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ACKNOWLEDGMENT OF DEPONENT

1
 2 I, _____, do
 3 hereby certify that I have read the
 4 foregoing pages, and that the same
 5 is a correct transcription of the answers
 6 given by me to the questions therein
 7 propounded, except for the corrections or
 8 changes in form or substance, if any,
 9 noted in the attached Errata Sheet.

10
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Subscribed and sworn
 to before me this

____ day of _____, 20____.

My commission expires: _____

 Notary Public

53 (Pages 206 to 209)

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether :
("MTBE") : Master File
Products Liability Litigation : No. 1:00-1898
: MDL No. 1358 (SAS)
: M21-88

This document relates to the :
following case: :

Orange County Water District v. :
Unocal Corp., et al., 04 Civ. 4968 : VOLUME III
(SAS) : Pages 494-667

Videotaped Deposition of DAVID P. BOLIN,
Volume III, Orange County Water District's 30(b)(6)
designee in re Site Specific Station Investigations,
held in the Law Offices of Latham & Watkins, 650 Town
Center Drive, 20th Floor, Costa Mesa, California,
beginning at 9:03 a.m.

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AUGUST 19, 2010

Reported by:
Sandra Bunch VanderPol, CSR #3032
Certified Realtime Reporter
Registered Merit Reporter
Realtime Systems Administrator credentialed
Fellow, Academy of Professional Reporters

GOLKOW TECHNOLOGIES, INC.
877.370.3377 ph|917.591.5672 fax
deps@golkow.com

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1 Unocal 5123, and Unocal 5399.
 2 Q. I thought the fourth one was Chevron
 3 9-5568.
 4 A. Oh, I stand corrected. I think you
 5 are correct. The numbers are kind of running
 6 together. I think -- it is Chevron 5568. Yes, it
 7 is.
 8 Q. Okay. And you are designated as the
 9 corporate representative of the Orange County Water
 10 District on the topics contained in Exhibit 26 for
 11 those four stations today?
 12 A. That is my understanding.
 13 Q. What did you do to prepare for your
 14 deposition?
 15 A. I reviewed prior documents, including
 16 documents and in a binder, which I brought with me,
 17 from the last deposition. And then more current
 18 documents that are either generated as part of this
 19 ongoing process, including the declaration by me,
 20 responses to interrogatories, the District's claim,
 21 and then some public documents for these various
 22 sites that we're going to talk about today that I
 23 obtained from Geotracker.
 24 Q. Okay.
 25 A. Those documents include Groundwater

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1 Monitoring Reports and a few correspondence, letters
 2 from the various agencies involved in these sites.
 3 MR. CORRELL: We will mark as
 4 Exhibit No. 27, which is a letter from Miller,
 5 Axline & Sawyer to Matt Heartney, dated August 17,
 6 2010.
 7 (Exhibit No. 27 was marked.)
 8 BY MR. CORRELL:
 9 Q. And I will ask you to look it over.
 10 And the question will be: As far as the Geotracker
 11 documents that you reviewed for these four sites, is
 12 this a complete list of those documents?
 13 A. I can't be certain that I've seen all
 14 of these documents.
 15 Q. Okay. Did you prepare a list of the
 16 documents you reviewed from Geotracker?
 17 A. No.
 18 Q. You said you brought a binder with
 19 you per station?
 20 A. Yes.
 21 Q. We are going to start with Chevron
 22 1921. Could I see the binder.
 23 A. This is the same binder that was
 24 produced for the prior deposition covering this site.
 25 There hasn't been any changes to that binder. In

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1 fact, there may be a couple of documents missing from
 2 there, including a map or a report, or something like
 3 that.
 4 Q. Okay. Did you review your prior
 5 deposition testimony on this site in preparation for
 6 today?
 7 A. No.
 8 Q. In regards to these four stations,
 9 did you talk to anyone other than counsel about them?
 10 A. Only insofar as that I was going to
 11 be deposed on these stations, but not details about
 12 these stations.
 13 Q. What do you mean by that?
 14 A. Roy Herndon is my supervisor. I
 15 informed him I was going to be in deposition and that
 16 I would be covering Chevron sites. I can't even say
 17 whether I mentioned which Chevron sites. But I just
 18 mentioned that I was going to be in deposition
 19 covering Chevron site.
 20 Q. And when you said "but not details,"
 21 you mean you didn't give him much detail in your
 22 conversation?
 23 A. Yes. We didn't talk about any of the
 24 technical merits of any of these sites.
 25 Q. Okay. As far as Chevron Site 9-1921,

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1 what has the District done in regards to that site
 2 since your last deposition?
 3 MR. MILLER: Objection. Overbroad. Calls
 4 for a narrative.
 5 THE WITNESS: We have monitored some of the
 6 new data that has come out since the last deposition.
 7 We've looked at -- I've been monitoring data in the
 8 general region.
 9 We have prepared an investigation that will
 10 be going forward, as soon as we can implement it in
 11 the field, that will include -- I believe it will
 12 include this station as one of the target sites we're
 13 going to be investigating,
 14 Q. That's the work that's to be
 15 performed by Hargis?
 16 A. That's correct.
 17 Q. We will come back to that in a
 18 second.
 19 So other than the monitoring the new data
 20 and monitoring data in general in the region and
 21 preparing for the Hargis investigation, has the
 22 District taken any other actions in regard to this
 23 site since your last deposition?
 24 A. No.
 25 MR. MILLER: Objection. By incorporating

4 (Pages 504 to 507)

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<p style="text-align: right;">Page 508</p> <p>1 prior answers and altering them in a question, it 2 becomes argumentative and misstates the evidence. 3 It's better to ask a fresh question. 4 MR. CORRELL: Let me try to deal with that 5 deposition. 6 Q. Any other actions, other than the 7 ones you've previously mentioned, has the District 8 taken since your last deposition in relation to this 9 site? 10 MR. MILLER: Vague and overbroad. 11 Go ahead. 12 THE WITNESS: I can't think of any. 13 BY MR. CORRELL: 14 Q. And you are the person at the 15 District that oversees any investigation or work at 16 this site? 17 A. No. That's not correct. 18 Q. Okay. How would you describe your 19 job responsibilities for the District in relationship 20 to Chevron 9-1921? 21 A. I'm the project manager for this 22 project or this litigation. It currently involves 23 this site. 24 Q. Okay. The -- you say "the project 25 manager." Let me just ask it this way.</p>	<p style="text-align: right;">Page 510</p> <p>1 consultants? 2 MR. MILLER: Same objections. 3 THE WITNESS: There's not a -- I don't have 4 a calendar or a fixed schedule for reviewing 5 documents associated with this site. I check on 6 available information for this site, as well as other 7 sites, as time allows and as some of those documents 8 are made available. 9 BY MR. CORRELL: 10 Q. Okay. Well, in regard to Chevron 11 9-1921, between the time of your last deposition and 12 preparing for this deposition, had you reviewed any 13 consultant reports? 14 A. It depends on what you mean by 15 "review." But I have read over several consultant 16 reports. 17 Q. In that intervening time period? 18 A. Yes. 19 Q. And if the District would have 20 contracted any work to be done at or related to 21 Chevron 9-1921 between the time of your last 22 deposition and today, given your role, you would have 23 been informed of that, correct? 24 A. Yes, I believe so. 25 Q. Now, you mentioned part of your role</p>
<p style="text-align: right;">Page 509</p> <p>1 What -- in that role, what are your duties, 2 if any, in relationship to this site? 3 A. I manage consultants and contractors 4 associated with any work for this site. I facilitate 5 and am involved in selecting wells that are being 6 tested, whether they are District wells or producer 7 wells, the production wells, or any other sample and 8 data collection. 9 I monitor some of the ongoing activities at 10 this site that are being conducted by the defendants' 11 consultants and read some of those reports. 12 Discussions that may come up with regulatory 13 community, I'm often involved in those discussions, 14 and other general responsibilities. 15 Q. As far as reading the reports from 16 Chevron's consultants on this site, do you do that 17 regularly? 18 MR. MILLER: Vague as to "regularly." And 19 vague as to whether or not you're talking about the 20 sites or generally. 21 BY MR. CORRELL: 22 Q. I thought I meant -- my questions now 23 are going to be specific to this site. 24 So in regard to Chevron Site 9-1921, do you 25 regularly review the reports of Chevron's</p>	<p style="text-align: right;">Page 511</p> <p>1 would be to have discussions with regulators. What 2 discussions have you had with any regulators 3 concerning Chevron 9-1921? 4 A. I don't recall any specific 5 discussions with regulators involving this site. 6 Q. What new data have you reviewed for 7 this site between your last deposition and presently? 8 MR. MILLER: Overbroad. Calls for a 9 narrative. 10 Are you asking for the types of data? 11 Vague. 12 THE WITNESS: This is what I believe is the 13 latest Quarterly Monitoring Report for this site. It 14 was prepared by SAIC. It's dated February 23rd, 15 2010, entitled, "The submittal of First Quarter 2010 16 Semi-Annual Progress and Groundwater Monitoring 17 Report." And it is for Chevron Service Station 18 No. 9-1921. 19 BY MR. CORRELL: 20 Q. And have you reviewed other type of 21 reports -- let me -- have you reviewed reports, other 22 than that report between your last deposition and 23 today regarding this site? 24 A. Yes. Actually, I wasn't finished. 25 Q. Oh, I am sorry.</p>

5 (Pages 508 to 511)

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1 the site?
 2 A. No.
 3 Q. Is one purpose of the work to
 4 determine whether any contamination that has escaped
 5 the site threatens drinking water?
 6 A. No.
 7 Q. Is one purpose of the work to
 8 determine if any MTBE that has escaped the site
 9 threatens a drinking water well?
 10 A. No.
 11 Q. Is one purpose of the work to
 12 determine whether MTBE that has escaped the site is
 13 currently impacting a drinking water well?
 14 A. No.
 15 Q. Since your deposition in June of
 16 2008, have you seen any data that indicates that MTBE
 17 that has escaped this site is impacting a drinking
 18 water well?
 19 A. I believe there has been an
 20 additional well in which MTBE was detected, but I
 21 can't recall for certain when that detection
 22 occurred. I believe it is MCWD-8.
 23 Q. You're looking at a plume map?
 24 A. I'm looking at a plume map. This was
 25 a map that was produced in the prior deposition.

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1 Q. What is MCWD-8?
 2 A. It's a groundwater production well.
 3 Q. And what analysis have you done to
 4 determine whether any MTBE detected in MCWD-8 came
 5 from Chevron 1921?
 6 A. Just the proximity of that well to
 7 Chevron 1921. It is downgradient. It is
 8 downgradient from the direction in which
 9 contamination has left the site.
 10 So it -- we haven't determined specifically
 11 that the contamination detected in that well -- and
 12 let me preface that by saying I'm not certain it is
 13 that well. My memory may be failing me. I seem to
 14 recall that there was an additional well. It also
 15 might have been MCWD-11. I just can't recall. I
 16 might be in error.
 17 But we have not done additional detailed
 18 analysis to determine the specific source of the
 19 contamination.
 20 Q. And the CPT testing won't help answer
 21 that question?
 22 A. Actually, that will help answer the
 23 question.
 24 Q. Okay. So, then, is one of the
 25 purposes of the CPT testing to determine whether

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1 contamination from Chevron 1921 is impacting these
 2 drinking water wells?
 3 A. That information will help the
 4 overall analysis. But mostly the CPT testing will
 5 help us delineate the plume that's emanated from the
 6 site.
 7 Q. And in delineating the plume
 8 emanating from the site, is it your goal to find a
 9 zero detect line?
 10 A. That hasn't been determined yet.
 11 Q. Has the District established any
 12 standards for when or under what conditions it will
 13 conclude that the plume from Chevron 1921 is fully
 14 delineated?
 15 A. No.
 16 Q. If the plume -- once the plume is
 17 fully delineated, wouldn't that tell you whether or
 18 not it's impacting a drinking water well?
 19 MR. MILLER: Objection. Insufficient facts
 20 on which to base a hypothetical. Calls for
 21 speculation.
 22 You're asking him to assume what conclusions
 23 can be drawn from data that presently are being
 24 gathered.
 25 THE WITNESS: I don't have a straight answer

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1 to your question. It depends on what the boundaries
 2 are that are defined for full delineation. And
 3 delineation includes more than just drilling and
 4 sampling. There are other analyses that go into
 5 delineation, including modeling and fate and
 6 transport tracking, and so on.
 7 I can't say. I don't have a good answer for
 8 that.
 9 BY MR. CORRELL:
 10 Q. Okay. Does the District currently
 11 have any plans to do any modeling of the
 12 contamination from 1921?
 13 MR. MILLER: Do not go into communications
 14 concerning experts retained by my firm or other work
 15 product. You can discuss the question, which asks if
 16 the District plans to do the work.
 17 THE WITNESS: District staff and District
 18 consultants aren't actually tasked with doing
 19 groundwater modeling for this.
 20 BY MR. CORRELL:
 21 Q. Are or are not? I'm sorry.
 22 A. Are not.
 23 Q. Any plans in the future to task them
 24 with that?
 25 MR. MILLER: Same objection.

12 (Pages 536 to 539)